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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,985	04/08/2004	Jerry Snider	PGI6044P2581US	9038
32116	7590	11/04/2005	EXAMINER	
WOOD, PHILLIPS, KATZ, CLARK & MORTIMER 500 W. MADISON STREET SUITE 3800 CHICAGO, IL 60661			DANIELS, MATTHEW J	
			ART UNIT	PAPER NUMBER
			1732	

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Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/820,985	<b>Applicant(s)</b> SNIDER ET AL.	
	<b>Examiner</b> Matthew J. Daniels	<b>Art Unit</b> 1732	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-6,9 and 12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6,9 and 12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Based upon the entry of the claim amendments filed 8 September 2005, Claims 1, 2, 4, 5, 9 and 12 are amended and Claims 7, 8, 10, and 11 are canceled. Claims 3 and 6 are original.

#### ***Claim Objections***

2. The claim objections are withdrawn in view of the amended claims.

#### ***Double Patenting***

3. The rejections of Claims 1, 4, 7, 10 set forth previously under the judicially created doctrine of obviousness-type double patenting are withdrawn in view of the terminal disclaimer filed 8 September 2005.

#### ***Claim Rejections - 35 USC § 112***

4. Rejections made under this section are withdrawn in view of the claim amendments.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-3, 9 and 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Pung (WO 9925318). **As to Claim 1**, Pung teaches a method of making a nonwoven cleaning article (see entire document) comprising the steps of:

a. providing a nonwoven fabric, wherein said nonwoven fabric is subject to hydraulic energy upon a three-dimensional image transfer device so as to simultaneously entangle and impart at least a first three-dimensional image and a second three-dimensional image into said fabric forming a nonwoven fabric with intercalated three-dimensional images (Page 3, line 97 to Page 5, line 173); and

b. providing a cleansing composition comprising an effective amount of a cleansing surfactant, said cleansing composition being coated onto or impregnated into said substrate to the extent of from 50% to 500% by weight of the substrate (Page 26, line 897-900).

Pung does not explicitly disclose a method in which the first three-dimensional image exhibits a different performance and/or aesthetic attribute than the second three-dimensional image in that the first three-dimensional image exhibits a different performance attribute than the second three-dimensional image. However, the Examiner cites Pung's teaching of "some of the raised fibrous regions are substantially the same as the basis weight of the base surface and the basis weight of other raised fibrous regions are greater than the basis weight of the base surface." (emphasis added by Examiner, Page 5, lines 153-155)

In the Examiner's interpretation, each raised fibrous region is an image. In view of the fact that Pung teaches at least two of each type of raised fibrous region, there are at least both first and second 3-dimensional images. In any arrangement of fibrous images comprised of four or more, as taught by Pung, at least one will exist between or among two others, meeting the

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Applicant's claim to intercalated images. Additionally, the Examiner submits that by providing a different basis weight to at least some of the intercalated images, that these images inherently have a different performance attribute when used in their intended use as cleansing wipes (2:48-49), inherently meeting the new limitations added to Claim 1. **As to Claim 2**, Pung's cleansing composition is aqueous (Page 5, line 174). **As to Claim 3**, Pung teaches a cleansing composition selected from fragrances and organic solvents (Page 25, line 858-874 and Page 24, line 852) or a combination thereof. **As to Claim 9**, Pung teaches at least paraffinic solvents (Page 24, line 852-853). **As to Claim 12**, Pung teaches at least alcohols and abrasives (Page 24, line 852 and Page 25, line 866).

6. Additional rejections of Claims 1-6, 9, and 12 as being anticipated by copending application 10/431,142 have been considered due to its earlier effective filing date. However, because the copending application appears to be silent to the amount of cleansing composition being 50% to 500% by weight of the substrate (Claims 1 and 4), additional rejections of the claims under 35 USC 102(e) have not been made.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
7. **Claims 1-4, 6, 9, 12** are rejected under 35 U.S.C. 103(a) as being unpatentable over Pung (WO 9925318) in view of De Leon (2002/0034914). **As to Claim 1**, Pung teaches a method of making a nonwoven cleaning article (see entire document) comprising the steps of:
- a. providing a nonwoven fabric, wherein said nonwoven fabric is subject to hydraulic energy upon a three-dimensional image transfer device so as to simultaneously entangle and impart at least a first three-dimensional image and a second three-dimensional image into said fabric forming a nonwoven fabric with intercalated three-dimensional images (Page 3, line 97 to Page 5, line 173); and
  - b. providing a cleansing composition comprising an effective amount of a cleansing surfactant, said cleansing composition being coated onto or impregnated into said substrate to the extent of from 50% to 500% by weight of the substrate (Page 26, line 897-900).

Pung does not explicitly disclose a method in which the first three-dimensional image exhibits a different performance and/or aesthetic attribute than the second three-dimensional image.

However, De Leon teaches a method in which the first three-dimensional image exhibits a different performance and/or aesthetic attribute than the second three-dimensional image (Fig.

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4, Compound Profiles, the two portions of the compound profile provide first and second images; additionally see Fig. 3B for first and second three-dimensional images).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of De Leon into that of Pung in order to provide profiles that can optimize fluid management (De Leon, Page 4, [0037]) and promote efficient manufacture (Page 1, [0006]). **As to Claim 2**, Pung's cleansing composition is aqueous (Page 5, line 174). **As to Claim 3**, Pung teaches a cleansing composition selected from fragrances and organic solvents (Page 25, line 858-874 and Page 24, line 852) or a combination thereof. **As to Claim 4**, Pung teaches a method of making a nonwoven cleaning article (see entire document) comprising the steps of:

a. providing a nonwoven fabric, wherein said nonwoven fabric is subject to hydraulic energy upon a three-dimensional image transfer device so as to simultaneously entangle and impart at least a first three-dimensional image and a second three-dimensional image into said fabric forming a nonwoven fabric with intercalated three-dimensional images (Page 3, line 97 to Page 5, line 173); and

b. providing a cleansing composition comprising an effective amount of a cleansing surfactant, said cleansing composition being coated onto or impregnated into said substrate to the extent of from 50% to 500% by weight of the substrate (Page 26, line 897-900).

Pung is silent to a method in which the first and second three-dimensional images are dissimilar from one another, in that the first three-dimensional image exhibits a different performance and/or aesthetic attribute than the second three-dimensional image, and the first three-dimensional image is intercalated immediately within the second three-dimensional image.

However, De Leon teaches a method in which the first and second three-dimensional images are dissimilar from one another, in that the first three-dimensional image exhibits a different performance and/or aesthetic attribute than the second three-dimensional image, and the first three-dimensional image is intercalated immediately within the second three-dimensional image. (Fig. 4, Compound Profiles, the two portions of the compound profile provide first and second images, the first being intercalated immediately within the second).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of De Leon into that of Pung in order to provide profiles that can optimize fluid management (De Leon, Page 4, [0037]) and promote efficient manufacture (Page 1, [0006]). **As to Claim 6**, Pung teaches at least colorants (Page 25, line 868). **As to Claim 9**, Pung teaches at least paraffinic solvents (Page 24, line 852-853). **As to Claim 12**, Pung teaches at least alcohols and abrasives (Page 24, line 852 and Page 25, line 866).

8. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over Pung (WO 9925318) in view of De Leon (2002/0034914), and further in view of Aszman (USPN 5108642). Pung and De Leon teach the subject matter of Claim 4 above under 35 USC 103(a). **As to Claim 5**, Pung and De Leon appear to be silent to a non-aqueous cleansing composition.

However, Aszman teaches a non-aqueous (5:18-34 and 6:51-57) cleansing composition which is applied directly to a layer of a pad (9:25-26) formed by hydroentanglement (3:49).

It would have been prima facie obvious to one of ordinary skill in the art at the time of the invention to incorporate the method of Aszman into that of Pung and De Leon because Pung and De Leon both teach hydroentanglement, and Aszman suggests the non-aqueous composition



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for a hydroentangled composite, and because doing so would avoid undesirable dripping of liquid cleaners having water as their solvent (Aszman 1:45-63). Pung's teachings (Page 5, lines 149-171 of WO 99/25318) also provide specific suggestion and motivation to modify the characteristics of the "patterned substrates" (Page 5, line 164), and would provide motivation to combine De Leon's method into that of Pung.

### *Response to Arguments*

9. Applicant's arguments filed 8 September 2005 have been fully considered but they are not persuasive. The arguments appear to be on the following grounds:

a) Clearly there is no teaching or suggestion in this referenced portion of the principal reference of providing first and second dissimilar images which differ by way of performance and/or aesthetic attributes. The reference is essentially silent to the formation of intercalated images having different performance and/or aesthetic attributes.

b) There are no illustrations in Pung's reference of the contemplated regions of varying basis weight. Thus, whether such regions are images, is purely speculative.

c) It is not at all clear that such images would be intercalated immediately within one another, as claimed in the instant application

10. These arguments are not persuasive for the following reasons:

a and b) The Examiner respectfully disagrees with the assertions set forth by the Applicant's remarks as they pertain to the Pung reference of record, or to the WIPO publication of the same application as WO 99/25318 cited in this action. The Examiner agrees that there does not appear

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to be teaching of dissimilar images by way of aesthetic attributes. However, the Examiner submits that “raised fibrous regions” (WO 99/25318, page 5, line 154), some of which are the same as the basis weight of the base surface, and some of which are greater than the basis weight of base surface (Page 5, lines 152-157), provide teaching and suggestion that two different types of raised fibrous regions are present. Basis weight is defined as mass per unit area, and because the different fibrous regions would therefore have different masses per unit area, the Examiner submits that the images would inherently have different performance attributes. Because the claim is directed at performance attributes “or” aesthetic attributes, the Examiner submits that inherent anticipation of Claim 1 exists as evidenced by the different basis weights of the raised fibrous regions.

Further, the Examiner submits that because the fibrous regions are “raised” and the substrates are “patterned” (WO 99/25318, Page 5, line 153 and Page 5, line 164, respectively), they are inherently also images.

c) The argument to the type of intercalation is directed at the amended claims. The claim rejections above are believed to suitably address this argument. However, the Examiner submits that Pung’s teachings (Page 5, lines 149-171 of WO 99/25318) provide specific suggestion and motivation to modify the characteristics of the “patterned substrates” (Page 5, line 164), and would provide motivation to combine De Leon’s method into that of Pung.

### ***Conclusion***

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Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew J. Daniels whose telephone number is (571) 272-2450. The examiner can normally be reached on Monday - Thursday, 7:30 am - 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaianne can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJD 10/29/05



MICHAEL P. COLAIANNI  
SUPERVISORY PATENT EXAMINER